

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by adding
5 Article 33G as follows:

6 (720 ILCS 5/Art. 33G heading new)

7 ARTICLE 33G.

8 ILLINOIS STREET GANG AND RACKETEER INFLUENCED AND CORRUPT

9 ORGANIZATIONS LAW

10 (720 ILCS 5/33G-1 new)

11 Sec. 33G-1. Short title. This Article may be cited as the
12 Illinois Street Gang and Racketeer Influenced and Corrupt
13 Organizations Law (or "RICO").

14 (720 ILCS 5/33G-2 new)

15 Sec. 33G-2. Legislative declaration. The substantial harm
16 inflicted on the people and economy of this State by pervasive
17 violent street gangs and other forms of enterprise criminality,
18 is legitimately a matter of grave concern to the people of this
19 State who have a basic right to be protected from such criminal
20 activity and to be given adequate remedies to redress its
21 harms. Whereas the current laws of this State provide

1 inadequate remedies, procedures and punishments, the Illinois
2 General Assembly hereby gives the supplemental remedies of the
3 Illinois Street Gang and Racketeer Influenced and Corrupt
4 Organizations Law full force and effect under law for the
5 common good of this State and its people.

6 (720 ILCS 5/33G-3 new)

7 Sec. 33G-3. Definitions. As used in this Article:

8 (a) "Another state" means any State of the United States
9 (other than the State of Illinois), or the District of
10 Columbia, or the Commonwealth of Puerto Rico, or any territory
11 or possession of the United States, or any political
12 subdivision, or any department, agency, or instrumentality
13 thereof.

14 (b) "Enterprise" includes (1) any individual, sole
15 proprietorship, partnership, corporation, association,
16 business or charitable trust or other legal entity, and (2) any
17 group of individuals or other legal entities, or any
18 combination thereof, associated in fact although not itself a
19 legal entity. An association in fact must be held together by a
20 common purpose, apart from an individual purpose or purposes,
21 but it need not be hierarchically structured or otherwise
22 specially configured. As used in this Article, "enterprise"
23 includes licit and illicit enterprises.

24 (c) "Predicate activity" means:

25 (1) any act, attempt, endeavor, solicitation, or

1 conspiracy that is punishable by imprisonment for more than
2 one year, and constitutes a violation or violations of any
3 of the following provisions of the laws of the State of
4 Illinois (as amended or revised as of the date the activity
5 occurred or, in the instance of a continuing offense, the
6 date that charges under this Article are filed in a
7 particular matter in the State of Illinois):

8 (i) under the Criminal Code of 1961: 8-1.2
9 (solicitation of murder for hire), 9-1 (first degree
10 murder), 9-3.1 (concealment of homicidal death), 9-3.3
11 (drug-induced homicide), 10-1 (kidnapping), 10-2
12 (aggravated kidnapping), 10-3 (unlawful restraint),
13 10-3.1 (aggravated unlawful restraint), 10-4 (forcible
14 detention), 10-5 (child abduction), 10-7 (aiding and
15 abetting child abduction), 10-9 (trafficking of
16 persons, involuntary servitude, and related offenses),
17 11-6 (indecent solicitation of a child), 11-6.5
18 (indecent solicitation of an adult), 11-9.1 (sexual
19 exploitation of a child), 11-9.2 (custodial sexual
20 misconduct), 11-15.1 (soliciting for a juvenile
21 prostitute), 11-16 (pandering), 11-17.1 (keeping a
22 place of juvenile prostitution), 11-18.1 (patronizing
23 a juvenile prostitute), 11-19.1 (juvenile pimping and
24 aggravated juvenile pimping), 11-19.2 (exploitation of
25 a child), 12-2 (aggravated assault), 12-4 (aggravated
26 battery), 12-4.1 (heinous battery), 12-4.2 (aggravated

1 battery with a firearm), 12-4.2-5 (aggravated battery
2 with a machine gun or silencer-equipped firearm),
3 12-4.7 (drug-induced infliction of great bodily harm),
4 12-6.1 (compelling organization membership of
5 persons), 12-6.4 (criminal street gang recruitment),
6 12-7.3 (stalking), 12-7.4 (aggravated stalking),
7 12-7.5 (cyber-stalking), 12-11 (home invasion),
8 12-11.1 (vehicular invasion), 12-13 (criminal sexual
9 assault), 12-14 (aggravated criminal sexual assault),
10 12-14.1 (predatory criminal sexual assault of a
11 child), 12-16 (aggravated criminal sexual abuse),
12 16-16.1 (aggravated possession of a stolen firearm),
13 18-1 (robbery), 18-2 (armed robbery), 18-3 (vehicular
14 hijacking), 18-4 (aggravated vehicular hijacking),
15 18-5 (aggravated robbery), 19-1 (burglary), 19-2
16 (possession of burglary tools), 19-3 (residential
17 burglary), 20-1 (arson), 20-1.1 (aggravated arson),
18 20-1.2 (residential arson), 20-1.3 (place of worship
19 arson), 20-2 (possession of explosives), 20.5-5
20 (causing a catastrophe), 20.5-6 (possession of a
21 deadly substance), 24-1.2 (aggravated discharge of a
22 firearm), 24-1.2-5 (aggravated discharge of a machine
23 gun or silencer equipped firearm), 24-1.6 (aggravated
24 unlawful use of a weapon), 24-1.8 (unlawful possession
25 of a firearm by a street gang member), 24-2.2 (unlawful
26 ammunition), 24-3 (unlawful sale of firearms), 24-3.2

1 (unlawful discharge of firearm projectiles), 24-3A
2 (gunrunning), 24-5 (defacing a firearm), 26-5
3 (dog-fighting), 29D-15 (soliciting support for
4 terrorism), 29D-20 (making a terrorist threat), 29D-25
5 (falsely making a terrorist threat), 29D-30
6 (terrorism), 29D-35 (hindering prosecution of
7 terrorism), 31A-1.2 (unauthorized contraband in a
8 penal institution), or 33A-3 (armed violence).

9 (ii) under the Cannabis Control Act: Sections 5
10 (manufacture or delivery of cannabis), 5.1 (cannabis
11 trafficking), or 8 (production or possession of
12 cannabis plants).

13 (iii) under the Illinois Controlled Substances
14 Act: Sections 401 (manufacture or delivery of a
15 controlled substance), 401.1 (controlled substance
16 trafficking), 405 (calculated criminal drug
17 conspiracy), 405.1 (criminal drug conspiracy), 405.2
18 (street gang criminal drug conspiracy), or 406.1
19 (unlawful use of buildings to produce controlled
20 substances).

21 (iv) under the Methamphetamine Control and
22 Community Protection Act: Sections 15 (methamphetamine
23 manufacturing), or 55 (methamphetamine delivery); or
24 (2) any act, attempt, endeavor, solicitation, or
25 conspiracy involving murder, kidnapping, illegal gambling,
26 arson, robbery, or dealing in a controlled substance or

1 listed chemical (as defined under the laws of the United
2 States in Title 21, United States Code, Section 802), that
3 is chargeable under the laws of another state and
4 punishable by imprisonment for more than one year. Under
5 this Article, the term "chargeable" means the act, attempt
6 or endeavor, solicitation, or conspiracy constitutes an
7 offense under the substantive criminal law of another
8 state, as such laws exist as of the date the activity
9 occurred or, in the instance of a continuing offense, the
10 date that charges under this Article are filed in a
11 particular matter in the State of Illinois, but it does not
12 include any procedural defenses under the laws of another
13 state.

14 (d) "Pattern of predicate activity" means:

15 (1) at least 2 occurrences of predicate activity
16 related to the affairs of an enterprise in the form of an
17 act, attempt, endeavor, solicitation, or conspiracy, or
18 any combination thereof; and

19 (2) at least one of which occurs after the effective
20 date of this Article, and the last of which falls within 10
21 years (excluding any period of imprisonment) after the
22 prior occurrence of predicate activity;

23 (e) "Unlawful debt" means a debt:

24 (1) incurred or contracted in the business of gambling
25 activity that was in violation of the law of the United
26 States, or the State of Illinois or another state, or any

1 political subdivision thereof, and that is unenforceable
2 under federal law, or the laws of the State of Illinois or
3 another state, in whole or in part as to principal or
4 interest, or

5 (2) that was incurred in connection with the business
6 of lending money or other things of value in violation of
7 the law of the United States, or the laws of the State of
8 Illinois or another state, or political subdivision
9 thereof at a rate usurious under federal law, or the laws
10 of the State of Illinois or another state, where the
11 usurious rate is at least twice the enforceable rate;

12 (f) "Unlawful death" includes the following offenses:
13 under the Criminal Code of 1961: Sections 9-1 (first degree
14 murder), 9-2 (second degree murder), 9-3 (voluntary
15 manslaughter and reckless homicide), or 9-3.2 (involuntary
16 manslaughter).

17 (720 ILCS 5/33G-4 new)

18 Sec. 33G-4. Prohibited activities. Under this Article:

19 (a) It is unlawful for any person:

20 (1) who is employed by or associated with any
21 enterprise, knowingly to conduct or participate, directly
22 or indirectly, in such enterprise's affairs through either
23 a pattern of predicate activity or the collection of
24 unlawful debt; or

25 (2) knowingly to acquire or maintain, directly or

1 indirectly, through either a pattern of predicate activity
2 or the collection of unlawful debt, any interest in, or
3 control of, to any degree, of any enterprise, real
4 property, or personal property of any character, including
5 money.

6 (b) It is unlawful for any person knowingly to attempt to
7 violate, or knowingly conspire to violate, this Article.
8 Notwithstanding any other provision of law, in any prosecution
9 for a conspiracy to violate this Article, no person may be
10 convicted of such conspiracy unless an overt act in furtherance
11 of such agreement is alleged and proved to have been committed
12 by him or by a coconspirator, but the commission of such overt
13 act need not itself constitute predicate activity underlying
14 the specific violation of this Article.

15 (c) The application of a remedy under this Article does not
16 preclude the application of other criminal, civil, or
17 administrative remedies under this Article or any other
18 provision of law. Any person prosecuted under this Article may
19 be convicted and sentenced either:

20 (1) for the offense of conspiring to violate this
21 Article, and for any other particular offense or offenses
22 that may be one of the objects of a conspiracy to violate
23 this Article; or

24 (2) for the offense of violating this Article, and for
25 any other particular offense or offenses that may
26 constitute predicate activity underlying a violation of

1 this Article.

2 (d) It is not a defense to any violation of this Article
3 that a defendant has been formerly prosecuted for an offense
4 based upon the same facts, within the meaning of Section 3-4 of
5 this Code, that thereafter serves as any portion of the
6 underlying predicate activity in a subsequent prosecution
7 under this Article, unless the former prosecution was
8 terminated by a final order or judgment, even if entered before
9 trial, which required a determination inconsistent with any
10 fact necessary to a conviction in the subsequent prosecution
11 under this Article.

12 (e) In any criminal prosecution under this Article, the
13 court may permit the introduction into evidence, as an
14 admission or self-incriminating verbal act by a defendant, any
15 certified court document relating to that defendant, including
16 charging instruments, judgments of conviction, or transcripts
17 of previous court proceedings underlying any prior conviction
18 of that defendant, that may otherwise constitute evidence of a
19 violation of this Article. The finder of fact may consider such
20 court documents against that defendant, but the admission of
21 the court documents shall not estop the defendant from
22 challenging, in the criminal prosecution under this Article,
23 any factual matters asserted in the court documents or any
24 inferences to be drawn therefrom.

1 Sec. 33G-5. Penalties. Under this Article, notwithstanding
2 any other provision of law:

3 (a) Any violation of subsection (a) of Section 33G-4 of
4 this Article shall be sentenced as a Class X felony with a
5 special term of imprisonment of not less than 10 years and not
6 more than 30 years, or the sentence applicable to the
7 underlying predicate activity, whichever is higher, and the
8 sentence imposed shall also include restitution, and or a
9 criminal fine, jointly and severally, up to \$250,000 or twice
10 the gross amount of any intended proceeds of the violation, if
11 any, whichever is higher.

12 (b) Any violation of subsection (b) of Section 33G-4 of
13 this Article shall be sentenced as a Class X felony with a
14 special term of imprisonment of not less than 7 years and not
15 more than 30 years, and the sentence imposed shall also include
16 restitution, and or a criminal fine, jointly and severally, up
17 to \$250,000 or twice the gross amount of any intended proceeds
18 of the violation, if any, whichever is higher.

19 (c) Wherever the unlawful death of any person or persons
20 results as a necessary or natural consequence of any violation
21 of this Article, the sentence imposed on the defendant shall
22 include an enhanced term of imprisonment of at least 25 years
23 up to natural life, in addition to any other penalty imposed by
24 the court, provided:

25 (1) the death or deaths were reasonably foreseeable to
26 the defendant to be sentenced; and

1 (2) the death or deaths occurred when such defendant
2 was otherwise engaged in the violation of this Article as a
3 whole.

4 (d) A sentence of probation, periodic imprisonment,
5 conditional discharge, impact incarceration or county impact
6 incarceration, court supervision, withheld adjudication, or
7 any pretrial diversionary sentence or suspended sentence, is
8 not authorized for a violation of this Article.

9 (720 ILCS 5/33G-6 new)

10 Sec. 33G-6. Remedial proceedings, procedures, and
11 forfeiture. Under this Article:

12 (a) The circuit court shall have jurisdiction to prevent
13 and restrain violations of this Article by issuing appropriate
14 orders, including:

15 (1) ordering any person to disgorge illicit proceeds
16 obtained by a violation of this Article or divest himself
17 or herself of any interest, direct or indirect, in any
18 enterprise or real or personal property of any character,
19 including money, obtained, directly or indirectly, by a
20 violation of this Article;

21 (2) imposing reasonable restrictions on the future
22 activities or investments of any person or enterprise,
23 including prohibiting any person or enterprise from
24 engaging in the same type of endeavor as the person or
25 enterprise engaged in, that violated this Article; or

1 (3) ordering dissolution or reorganization of any
2 enterprise, making due provision for the rights of innocent
3 persons.

4 (b) Any violation of this Article is subject to the
5 remedies, procedures, and forfeiture as set forth in
6 subsections (f) through (s) of Section 29B-1 of this Code.

7 (720 ILCS 5/33G-7 new)

8 Sec. 33G-7. Severability. If any clause, sentence, Section
9 or provision, or part of this Article or the application
10 thereof to any person or circumstance shall be adjudged to be
11 unconstitutional, the remainder of this Article or its
12 application to any person or circumstances other than those to
13 which it is held invalid shall not be affected thereby.

14 (720 ILCS 5/33G-8 new)

15 Sec. 33G-8. Construction. In interpreting the provisions
16 of this Article, the court, because of their remedial purposes,
17 shall construe them liberally. Nothing in this Article shall
18 preclude the imposition of additional criminal penalties under
19 any provision of Federal law, or the laws of the State of
20 Illinois or another state, or any other law, or the affording
21 of any remedies in addition to those provided for in this
22 Article. In addition, the court shall construe this Article in
23 light of the provisions contained in Title IX of Public Law
24 91-452, 84 Stat. 922 (as amended in Title 18, United States

1 Code, Section 1961-1968), wherever substantially similar
2 language is used in such Title and this Article, but where such
3 language indicates an intent to depart from such Title, the
4 court shall interpret the language as herein provided.

5 (720 ILCS 5/33G-9 new)

6 Sec. 33G-9. Limitations. Under this Article,
7 notwithstanding any other provision of law, but otherwise
8 subject to the periods of exclusion from limitation as provided
9 in Section 3-7 of this Code, the following limitations apply:

10 (a) Any action, proceeding, or prosecution brought under
11 this Article must commence within 5 years of one of the
12 following dates, whichever is latest:

13 (1) the date of the commission of the last occurrence
14 of predicate activity in a pattern of such activity, in the
15 form of an act, attempt, endeavor, or solicitation,
16 underlying the alleged violation of this Article; or

17 (2) in the case of an action, proceeding, or
18 prosecution, based upon a conspiracy to violate this
19 Article, the date that the last objective of the alleged
20 conspiracy was accomplished, defeated or abandoned
21 (whichever is later); or

22 (3) the date any minor victim of the violation attains
23 the age of 18 years or the date any victim of the violation
24 subject to a legal disability thereafter gains legal
25 capacity; or

1 (4) the date that any alleged violation of this
2 Article, including injury, cause, pattern, or identity of
3 the violator or violators, was otherwise discovered in the
4 exercise of good faith.

5 (b) Any action, proceeding, or prosecution brought under
6 this Article may be commenced at any time against all
7 defendants if the conduct of any defendant, or any part of the
8 overall violation, resulted in the unlawful death of any person
9 or persons.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.